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New York

SUMMARY RECORD OF THE 15th MEETING

Chairman: Mr. MIKULKA (Czechoslovakia)

CONTENTS

AGENDA ITEM 144: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)

AGENDA ITEM 139: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (continued)

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The meeting was called to order at 3.15 p.m.

AGENDA ITEM 144: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued) (A/45/33)

AGENDA ITEM 139: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (continued) (A/45/436 and Add.1, A/45/522-S/21795, A/45/527-S/21801, A/45/597, A/45/598-S/21854, A/45/600-S/21857; A/C.6/45/L.1)

1. Mr. BELHAJ (Tunisia) said that the new situations currently confronting the world community justified a revision or a reinterpretation of the concept of the maintenance of international peace and security in the light of changed circumstances. The new decade would see the birth of a new order that demanded imagination and realism, one that would lay the foundations for the world of the twenty-first century.

2. At the forty-fourth session of the General Assembly, the President of the Republic of Tunisia had put forward the idea of a contract of civilization based on co-operation and understanding among States. That contract would be mutually binding, embodying rights and duties for all, and would guarantee the maintenance of international peace and security. The United Nations was the most appropriate forum for concluding such a contract, for it had a duty to prevent conflicts and situations that were likely to jeopardize the stability of the international order. Certain fundamental concepts would have to be updated for that purpose.

3. New problems were arising, bringing new challenges. The global economic situation had become an integral part of the concept of the maintenance of international peace and security and it was up to the United Nations to show its adaptability by drawing up a contract on which relations between States and peoples would be based and which would preserve the rights of each while, of course, ensuring the maintenance of international peace and security. There was no need to rewrite or even revise the Charter, but a new and courageous approach must be taken to events and situations that threatened peace, in order to nip them in the bud before more drastic remedies became necessary.

4. Among the situations that must be settled rapidly, the question of Palestine was the most urgent and the most dangerous. His delegation was encouraged by Security Council resolution 672 (1990) of 12 October 1990, which was a first step towards the settlement by the entire international community, through an international conference, of a problem that had persisted for far too long.

5. The Secretary-General's report on the work of the Organization had given rise in the Sixth Committee to a number of comments, in particular on the possibility for the Secretary-General to request advisory opinions from the International Court of Justice. His delegation hoped to submit to the working group of the United Nations Decade of International Law some of its views on the legal basis on which the Secretary-General might be authorized to ask the Court for an advisory

(Mr. Belhaj, Tunisia)

opinion. One possibility would be to give the Secretary-General the authority, already vested in the General Assembly and the Security Council, to request advisory opinions from the Court. That would require amending the Charter. A second possibility would be to follow the precedent established for the Economic and Social Council, which was permitted to consult the Court with the authorization of the General Assembly. Consideration of the issue was in its early stages, but thought must be given immediately to the need to enumerate very precisely the cases in which the Secretary-General would be authorized to ask the Court for advisory opinions. Relevant legal precedents should be taken into account, in particular Advisory Opinion No. 5 of the Permanent Court of International Justice on the Eastern Carelia case, the 1950 ICJ opinion on the interpretation of peace treaties, and the Court's opinion in the case of Western Sahara. Those precedents were a reminder that the Court only gave its opinion on a given question under certain conditions.

6. Having examined the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, his delegation was satisfied with the results achieved by the Committee on the question of fact-finding activities, particularly its joint consideration of the two working papers A/AC.182/L.60/Rev.1 and A/AC.182/L.62/Rev.1 and their consolidation into a single document (A/AC.182/L.66), which his delegation saw as an excellent basis for the Committee's work. There were many points of convergence and he hoped that a document prepared on that basis could be adopted soon.

7. His delegation had already insisted, within the Special Committee, on the need to obtain the consent of the receiving State for a fact-finding mission, as a way to guarantee that State's full co-operation and hence the success of the mission. One exception might be allowed when the facts demonstrated beyond any doubt that civilians were subject to unlawful coercion and that the international community must take urgent action. The United Nations, through one of the three organs responsible for maintaining international peace and security, had a duty to verify the facts in such cases. The unanimity of the members of the General Assembly or the Security Council would then prevail over the sovereignty of the State concerned. The mission recently provided for in Security Council resolution 672 (1990) was one example of such a situation.

8. His delegation wished to encourage the trend that had emerged in the Special Committee towards expanding the Secretary-General's powers to undertake fact-finding missions. The final document to be prepared by the Special Committee should be an instrument available to the Secretary-General to help him anticipate situations and propose rapid action for the maintainance of international peace and security, without prejudice to the role entrusted by the Charter to the Security Council and the General Assembly.

9. Concerning the final drafting of the document on the rationalization of existing United Nations procedures, his delegation had already voiced its reservations and doubts about the relevance of the document. In its view, neither the framework nor the subject were particularly well chosen. Despite those

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(Mr. Belhaj, Tunisia)

reservations, which particularly concerned the first paragraph of the document and its divergent renderings in the different official languages, his delegation was prepared to adopt the proposal formally at the forty-fifth session.

10. The completion by the Secretariat of the draft handbook on the peaceful settlement of disputes marked a new stage in the efforts of the Sixth Committee and its secretariat to make international law accessible to everyone. That objective would be one of the subjects of the United Nations Decade of International Law and the success of the Decade would be advanced by the completion of the handbook.

11. Mr. TETU (Canada) welcomed the elaboration by the Special Committee of a document, originally proposed by France and the United Kingdom, on the rationalization of existing United Nations procedures. His delegation hoped that the General Assembly would adopt the document unanimously without delay. It also supported the proposal by Romania that item 139 on the peaceful settlement of disputes should be withdrawn from the agenda so that the topic could be considered in the context of work on the programme for the United Nations Decade of International Law.

12. With regard to the strengthening of the role of the Organization in the maintenance of international peace and security, Canada, which had attended the Special Committee's deliberations as an observer, had been particularly encouraged by the progress made in connection with fact-finding activities. It welcomed the consolidation of the two working papers submitted on the topic into a single document. His delegation hoped that the document, as finalized, would be submitted to the General Assembly for adoption at its forty-sixth session.

13. The consolidated document was in line with Canada's primary expectations: it left open the possibility for the Secretary-General, the Security Council or the General Assembly to carry out a fact-finding mission; a mission could be undertaken as soon as a situation became likely to threaten international peace and security; and, lastly, such missions would enjoy freedom of movement and communication in the territories in which they were conducted. Other advantages of the document were that it clarified the provisions of the Charter without their having to be amended, and that it specified the role of the United Nations and of host countries in respect of such missions.

14. His delegation noted with satisfaction that the draft handbook on the peaceful settlement of disputes between States would be completed before the next session of the Special Committee. The document would be useful in considering future proposals on the topic, particularly within the context of the United Nations Decade of International Law.

15. His delegation had also been pleased to note the increasingly positive attitude of States towards recourse to international law and to the machinery for the settlement of disputes. In that connection, it welcomed the withdrawal of the reservations entered by Romania with regard to recourse to the jurisdiction of the International Court of Justice in respect of certain multilateral treaties on the rights of individuals. An ever-increasing number of cases had been submitted to

(Mr. Tetu, Canada)

the Court in the past year. The President of the Court had responded favourably to the Secretary-General's initiative concerning the possibility of requesting advisory opinions from the Court. Such developments tended to strengthen the rule of law in relations between States.

16. As far as the future work of the Special Committee was concerned, some elements of the programme for the Decade of International Law could be entrusted to the Committee, provided that its deliberations did not duplicate those of other bodies. The Special Committee could thus continue to play a guiding role in the implementation of the Charter.

17. Mr. SUN Lin (China) said that, since the founding of the Special Committee in 1975, significant progress had been achieved and the role of the Organization had increased considerably. In particular, the Security Council had played an extremely important role in promoting the cease-fire between Iran and Iraq, in achieving the independence of Namibia and in handling the Gulf crisis. The Secretary-General's energetic activities in that area and the role he was playing with the authorization, approval or close co-operation of the Security Council were truly remarkable. The General Assembly had also made an important contribution to the maintenance of international peace and security. Such developments were of great importance for the work of the Special Committee, especially for the elaboration of a document on the question of fact-finding.

18. It was necessary to assess accurately the proper status and role of fact-finding in United Nations efforts to maintain international peace and security, and to devote a document exclusively to that topic, without, however, underestimating the part played by other bodies in such activities and the rights of receiving States. Some delegations had expressed concern that the proposed document made the dispatch of a fact-finding mission a pre-condition for the consideration of the situation in question, by assuming that the organs of the United Nations would be compelled to consider sending a fact-finding mission in every case, that being the only way for the United Nations to signal its concern. Other delegations had taken the view that the working paper failed to strike a balance between the obligation to send fact-finding missions and the rights of receiving countries. It was also necessary to lay down precise provisions with regard to the fact-finding functions of the various United Nations organs.

19. The Secretary-General had played an important role in that regard, but particular attention should also be paid to the question of fact-finding by the Security Council and the General Assembly. Some members of the Special Committee had taken the view that the provisions in document A/AC.182/L.60/Rev.1 concerning the Secretary-General's role were too detailed. In his delegation's opinion, even the consolidated document (A/AC.182/L.66) needed improvement in that regard.

20. It was, moreover, imperative to comply with paragraph 7 of Article 2 of the Charter by fully respecting the sovereignty of receiving States during fact-finding missions. Document A/AC.182/L.66 incorporated some improvements in that respect, but some of its provisions needed further revision.

(Mr. Sun Lin, China)

21. The sponsors of documents A/AC.182/L.60/Rev.1 and A/AC.182/L.62/Rev.1 had made an important contribution to the elaboration and adoption of the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field. His delegation was willing to join in any further efforts which might be made in the context of the Special Committee's deliberations on the strengthening of the role of the Organization.

22. Mr. HAIDER (Pakistan) said that the world was undergoing a remarkable transformation and that there was increasing recourse to the United Nations for the resolution of regional and international problems. The 1988 Geneva Agreements on Afghanistan, the independence of Namibia, the recent implementation of Security Council resolution 598 (1987) by Iran and Iraq and the progress towards peace in Cambodia, Central America and Western Sahara testified to the enhanced effectiveness of the United Nations in furthering world peace. While the recent developments in the Middle East were a setback, it should be noted that the Security Council had reacted forcefully and categorically to ensure the restoration of the sovereignty, territorial integrity and legitimate Government of Kuwait. His delegation fully supported the Council's measures.

23. His delegation welcomed the fact that the Special Committee had been able to consolidate the two working papers on United Nations fact-finding in the field of the maintenance of international peace and security into a single document (A/AC.182/L.66), which was reproduced in paragraph 68 of the Special Committee's report. The unified paper was a major step towards completion of that important aspect of the Committee's work on the question of the maintenance of international peace and security.

24. With regard to fact-finding missions, the delegation of Pakistan felt that the Secretary-General should establish such missions whenever the situation so demanded. He should be empowered to determine their composition in consultation with the parties concerned and under the mandate of the Security Council or the General Assembly. As a general rule, States should co-operate with United Nations fact-finding missions dispatched to their territory. The Secretary-General should also be encouraged and given the discretion to bring the findings of the missions to the attention of the Security Council under Article 99 of the Charter.

25. His delegation expressed its appreciation to the Secretariat concerning the progress made on the draft handbook on the peaceful settlement of disputes between States. That handbook would undoubtedly be very useful, particularly to developing countries.

26. The concept of accepting the compulsory jurisdiction of the Court was gaining ground. Since the previous year, some States had accepted compulsory jurisdiction, while some had withdrawn their reservations with respect to treaty clauses giving compulsory jurisdiction to the Court. That was a positive development which suggested a growing respect for international law and the willingness of States to be bound by its rules. Pakistan had accepted the compulsory jurisdiction of the

(Mr. Haider, Pakistan)

International Court of Justice for the settlement of legal disputes. His delegation fully agreed with the observation of the Secretary-General, on page 15 of his report on the work of the Organization, which he proceeded to read out.

27. Regarding the rationalization of existing United Nations procedures, his delegation welcomed the Special Committee's adoption by consensus of the draft document appearing in paragraph 86 of its report. While a consensus was always welcome, the principle of consensus should not be used to hinder efforts to strengthen the Charter and the role of the United Nations as a peace-maker.

28. His delegation had noted with interest the proposals submitted by the Soviet Union in the document entitled "New issues for consideration in the Special Committee" (A/AC.182/L.65) appearing in paragraph 14 of the report. Some of the proposals, such as those concerning ways and means of implementing the Charter of the United Nations and the norms of international law, and strengthening the role of the Secretary-General in peace-making should be studied in detail at future meetings of the Committee. Pakistan would support any initiative to reinforce the role of the United Nations and to enable it to carry out its tasks more effectively in accordance with the purposes and principles of the Charter. In particular, ways must be found to ensure effective implementation of the collective security provisions of the Charter.

29. The effectiveness of the United Nations depended primarily on strict compliance by all Member States with the provisions of the Charter. If, on some occasions, the United Nations had not been able to live up to its primary responsibility of maintaining international peace and security, that could be attributed, not to any flaws in the Charter, but rather to the attitude of those who had failed to abide by those provisions and to honour the decisions of the United Nations.

30. Mr. MADI (Egypt) said that the positive evolution witnessed in recent years in relations between the major Powers seemed to mark a new era in international relations. In that regard, the recent events in central and Eastern Europe had been even more important for the international community as a whole, since they involved the expression of the right of peoples to self-determination, a central principle of the Charter of the United Nations. The policy of confrontation and ideological disputation had given way to dialogue and co-operation, which had enabled United Nations peace-keeping activities to develop on positive lines. The Security Council in particular, thanks to co-operation among its permanent members, had been able to adopt a new approach to the settlement of regional and global problems which had worsened during the cold war. The United Nations had been able to lead Namibia to independence and to participate in the settlment of problems in Central America, Afghanistan, Kampuchea and Western Sahara. It would therefore seem that the world was witnessing the advent of a new international order based on justice and equality among States and peoples, an order founded on the purposes and principles of the Charter of the United Nations.

(Mr. Madi, Egypt)

31. That no doubt accounted for the fact that, when Iraq had invaded Kuwait, on 2 August 1990 and subsequently occupied and attempted to annex that country, the international community had firmly and unanimously condemned it. Indeed, from the earliest days of the invasion, the Security Council had been unanimous in condemning Iraq and calling for the restoration of Kuwait's sovereignty and return of its lawful Government, and even adopting measures provided for in Chapter VII of the Charter. The Council should be thanked for having so firmly placed itself on the side of law and equity. Its attitude during the Gulf crisis strengthened confidence in the United Nations and in its capacity to achieve the objectives for which it was created. The international community had clearly seen on that occasion that the provisions of the Charter were adequate and that it was the absence of political will among certain permanent members of the Council that had impeded action by that body in the past. The support demonstrated by the international community for the Council's action with regard to Iraq was unprecedented, and sent a firm message to any potential aggressor attempting to jeopardize the new international order that was being established. The provisions of the Charter must be respected by all, without distinction, and the maintenance or collapse of the newly emerging international order would largely depend on the ability of the Council to discharge its responsibilities under the Charter.

32. With regard to United Nations fact-finding missions to assist in the maintenance of international peace and security, his delegation thanked the sponsors of the two drafts submitted on that subject (A/AC.182/L.60 and A/AC.182/L.62), which had been considered at earlier sessions, for having heeded the many delegations that had requested that those two documents should be combined in a single document, and for having drafted such a document with the other members of the Committee (A/AC.182/L.66). The discussions held in the Committee showed the existence of a broad basis for consensus, which gave reason to hope that the document could be submitted to the General Assembly for adoption at its next session. For the purposes of discussing the document, some comments needed to be made.

33. First, the general purpose of the document should be to encourage States to admit fact-finding missions in their territory and, to that end, their prior consent was essential. It should not be merely implicit, and in that connection paragraphs 18 and 19 of the document were unnecessary. The effect of those paragraphs would be to divide States into different categories: those that declared that they would admit any United Nations fact-finding mission, and those that would undertake only to admit certain types of missions or to admit them for a limited time only. Such a division would not facilitate the task of the United Nations. Besides, States should not set conditions for admission with a view to impeding action by the Security Council in the maintenance of international peace.

34. Secondly, even though it was convinced of the need to strengthen the information-gathering capabilities of the Secretary-General, the Egyptian delegation considered it necessary to reconsider paragraphs 36 and 37. Care should be taken to ensure that the task demanded of United Nations information centres and of United Nations officials outside Headquarters in information-gathering were

(Mr. Madi, Egypt)

compatible with the nature of their duties and, in the case of the latter, their status as international civil servants.

35. Thirdly, the role of the Secretary-General in preventive diplomacy should be increased, and the time had come for a new reading of Article 99 of the Charter which would enable that role to be broadened and would not limit the Secretary-General's capacity for initiative and rapid intervention.

36. With regard to the peaceful settlement of disputes, although no proposal had been submitted at the Special Committee's previous session, delegations had indicated which questions the Special Committee might consider under that item. The Egyptian delegation, for its part, was of the view that item 139 and item 144 could not be considered separately. The peaceful settlement of disputes and the non-use of force were essential if the United Nations was to play its peace-keeping role to the full.

37. His delegation thanked the Office of Legal Affairs for the progress made in the preparation of the draft handbook on the peaceful settlement of disputes between States and was pleased to note that, despite the scarcity of resources, the final text of the handbook could be adopted at the Special Committee's next session.

38. Document A/AC.182/L.65, submitted by the Union of Soviet Socialist Republics and entitled "New issues for consideration in the Special Committee", contained some substantive proposals which might constitute a long-term programme of work for the Special Committee. The Egyptian delegation considered that the Special Committee might begin by considering ways and means of expanding co-operation between the United Nations and regional organizations. Such co-operation was, in fact, essential. One need only consider such examples as United Nations co-operation with the Organization of African Unity (OAU) in the matter of Western Sahara and with the Organization of American States (OAS) in Central America. The expansion of such co-operation could help to strengthen the role of regional organizations in accordance with the provisions of Chapter VIII of the Charter.

39. As for the rationalization of existing procedures of the United Nations - a topic which, since the submission of document A/AC.182/L.43/Rev.5 by France and the United Kingdom, had given rise to a number of differences of opinion within the Special Committee in recent years - it was gratifying to note the efforts made at the Committee's previous session to reconcile the various views and draw up the draft document submitted to the General Assembly for adoption in paragraph 86 of the report of the Special Committee. Even if some of the points addressed in the document were already covered by the rules of procedure of the General Assembly, others related to questions that traditionally came within the purview of the Sixth Committee. The Committee should endeavour to adopt the proposed document so that the topic need no longer be included in the Special Committee's programme of work and so that it could thus be free to devote its attention to other, more substantive issues.

40. Mrs. SINHA (India) noted with satisfaction that, at its previous session, the Special Committee had completed the draft document on the rationalization of existing United Nations procedures. She agreed with the basic objective of enabling the Organization to effect savings by making more efficient use of its resources through a more rational scheduling of meetings and conferences. At the same time, while supporting efforts to rationalize the agenda by combining similar or related items in so far as that would enable more time to be spent on substantive issues and less on procedural matters, the Indian delegation was concerned that attempts to delete a large number of agenda items and to reduce the number of General Assembly resolutions and decisions might result in the deletion or non-consideration of items which were of particular significance to the developing countries. Agenda items of particular concern to the developing countries should not fall victim to any rationalization exercise.

41. On the subject of fact-finding by the United Nations to assist in the maintenance of international peace and security, the idea of utilizing more fully the information-gathering capabilities of the Secretary-General deserved careful consideration. Various proposals had been made regarding fact-finding, such as the sending of civilian, military and mixed missions, the appointment of special envoys and the establishment of ad hoc subsidiary bodies, but it must be borne in mind that United Nations fact-finding activities should be undertaken with the provisions of Article 2 (7) of the Charter in view. Furthermore, such activities, to be effective and successful, needed the prior consent and co-operation of the State in whose territory they were carried out.

42. If the Organization was to have full knowledge of all the relevant facts, its information-gathering capabilities must be optimally utilized. The proposal that States should give reasons for refusing to admit a United Nations fact-finding mission might not be acceptable to States. Once a State had given its consent to the admission of a fact-finding mission, however, it could co-operate with it to enable it to carry out its activities in an impartial and effective manner. On that understanding, the Indian delegation supported, by and large, the ideas contained in paragraph 22 of the relevant document (A/AC.182/L.66).

43. There was no denying that the system established by the Charter of the United Nations should enable the Security Council and the Secretary-General to function with the requisite flexibility and effectiveness in dealing with situations threatening international peace and security. On the other hand, the real cause of the Organization's ineffectiveness in dealing with some of the ills currently afflicting the international community lay not in any conceptual deficiency of the system established under the Charter, nor in any dysfunction of United Nations organs or established procedures, but in the fact that some States, particularly among the more powerful and wealthy, did not show the necessary political will. At all events, the representative character of United Nations decisions in that field had a direct bearing on the strength of such decisions.

44. With regard to the draft handbook on the peaceful settlement of disputes between States, considerable progress had been made by the Secretariat in the drafting of the text, under the guidance of the Legal Counsel. It was to be hoped

(Mrs. Sinha, India)

that, despite the limited financial and human resources, the work could be completed soon.

45. At a time when the United Nations was endeavouring to control its expenditure, the Committee should direct its efforts towards the completion of the task entrusted to it. It should examine the unified revised document and identify the points of convergence. In that way it could achieve its goal during its next session.

46. Mr. AL-HOSANI (United Arab Emirates) said that the report of the Special Committee contained proposals that were important from the point of view of the maintenance of international peace and security, which was the main objective of the United Nations. The peaceful settlement of disputes called for substantive measures and recourse to all mechanisms provided for under the Charter. Divergences between States could never justify aggression and occupation. The United Arab Emirates therefore welcomed the international community's firm reaction to the violation of international rules and conventions which had occurred in Kuwait. It hoped that the crisis would be resolved through the implementation of the Security Council's resolutions calling for the unconditional withdrawal of Iraqi troops and the restoration of the legitimate Government of Kuwait.

47. The Security Council must consider the possibility of sending fact-finding missions with a view to ensuring the maintenance of international peace and security. The United Arab Emirates supported the efforts made by the Special Committee at its session. It was following with interest the preparation by the Secretariat of a draft handbook on the peaceful settlement of disputes between States.

48. With regard to the rationalization of procedures, his delegation joined those delegations that were requesting increased resort to the International Court of Justice and application of its decisions.

49. Mr. ALI (Yemen) reaffirmed his country's unswerving attachment to the Charter in the context of the maintenance of international peace and security, particularly through the peaceful settlement of disputes between States. In that regard, the Yemeni delegation welcomed the progress made in drafting a handbook on the subject, which it trusted would be completed in 1991.

50. His delegation was in favour of fact-finding missions, since the international community believed that it would thus be possible to gain a thorough insight into situations in regions where there were conflicts. It was also necessary to establish that States had an obligation to facilitate the work of such missions, thereby enabling the United Nations to take the necessary measures.

51. The Yemeni delegation joined those delegations that had stressed the important role that the International Court of Justice played, and must increasingly play, in the peaceful settlement of disputes between States.

(Mr. Ali, Yemen)

52. Yemen was convinced of the need to base international relations on that fundamental instrument, the Charter, thereby strengthening the role of the Organization.

53. Mr. DELON (France) said that in the space of a few months the United Nations had managed to convince even the most sceptical that it was capable of shouldering the responsibilities entrusted to it by the drafters of the Charter. Evidence of that was to be found both in the accession by Namibia to independence, at the end of an exceptionally sizeable peace-keeping operation, and in the progress made in Central America; while such efforts would now probably be extended to Western Sahara and Cambodia.

54. In the immediate term, the United Nations was faced with the invasion of Kuwait by Iraq. Taking the Charter as a basis, the Security Council had been able to come up with an immediate and determined response to that challenge, imposing severe economic sanctions on Iraq and taking appropriate decisions to ensure their full application.

55. The unusual intensity of Security Council action in recent days had again been illustrated by the unanimous adoption, on the night of 12/13 October, of an important resolution on the Arab-Israeli conflict. Admittedly, all those successes had been made possible by the recent shifts in geopolitical balances; but they had been achieved only because the United Nations had been able, smoothly and without any need to adjust its structures - particularly the Charter - effectively to attack the problems placed before it.

56. With regard to the maintenance of international peace and security, welcome progress had been made in the drafting of a unified text on fact-finding, which provided a striking demonstration of the new relationships in intra-European co-operation. His delegation, which was taking an active part in the discussion of that document in the Special Committee, recalled that the Charter explicitly assigned the power to conduct inquiries only to the Security Council, and that fact-finding inquiries which might be undertaken by the General Assembly and the Secretary-General could be held only within the limits of their respective general powers. The document should reflect that legal difference.

57. His delegation welcomed the progress made in drafting the handbook on the peaceful settlement of disputes between States, and hoped that once the handbook had been finalized by the Special Committee it would be widely disseminated. As Romania had suggested, the topics of the peaceful settlement of disputes and of the United Nations Decade of International Law should no longer be considered separately, so as to avoid any dilution of efforts. Given that the peaceful settlement of disputes would be one of the key themes of the Decade's programme of action, it would be necessary to have recourse to the Special Committee's expertise and competences in those two fields.

(Mr. Delon, France)

58. While welcoming the fact that the Special Committee had decided to submit to the General Assembly for consideration and adoption the revised document on the rationalization of existing United Nations procedures, his delegation believed that the item on the rationalization of procedures should be kept on the Special Committee's agenda. The process in question should be open-ended and should constantly evolve, to take account of developments in United Nations activities and of any new needs that might arise.

59. Mr. LUNA (Peru) said that the Special Committee's work was part of the current of renewal that characterized the role of the United Nations following the developments in the international situation, and bore witness to the ever-increasing awareness of the primacy of law in international relations.

60. With regard to United Nations fact-finding, his delegation emphasized the need to strike a satisfactory balance between the powers assigned to the various organs with regard to such missions, and stressed the importance of the special role of the General Assembly. The document to be drafted should begin by stating the need for the receiving State's consent, and care should be taken to avoid any ambiguity. Provisions requiring States to give reasons for decisions taken in the exercise of their prerogatives must also be avoided. Similarly, a clause on unilateral declarations accepting such missions was unlikely to increase the mechanism's efficiency, and might be a source of tension. Furthermore, restrictive and binding language was not calculated to instil confidence in receiving States. Lastly, care must be taken to optimize sources of information.

61. In the field of the rationalization of existing United Nations procedures, his delegation welcomed the fact that the Special Committee had completed the preparation of the revised document presented jointly by the United Kingdom and France, which was to be submitted to the General Assembly for consideration and adoption.

62. Informal debates, which need not necessarily lead to the adoption of a document, could play a salient role in a field such as international law. The Special Committee's debate on the peaceful settlement of disputes had been of great interest. He welcomed the fact that the handbook on the subject drafted by the Secretariat would be ready for submission at the Special Committee's following session, and hoped that the Special Committee would have the opportunity to put the finishing touches to it.

63. The 1990 session had been particularly fruitful. Once it was released from its work on the rationalization of United Nations procedures, the Special Committee should be able to devote more time to the question of the maintenance of international peace and security, and to new topics, which would need to be selected with care.

64. With regard to the second item before the Sixth Committee, the peaceful settlement of disputes between States, Peru had had occasion to put forward its point of view in 1988, and its position had not changed since then. At a time when

(Mr. Luna, Peru)

promising trends and threatening challenges could be glimpsed on the horizon, the States Members of the United Nations must do everything in their power to design in concert, irrespective of their ideological orientations or levels of development, a system based on justice and the primacy of law, which could guarantee peace and security, development, respect for human rights and protection of the environment for all.

65. Mr. PETROVSKY (Deputy Minister for Foreign Affairs of the Union of Soviet Socialist Republics) said that at the previous session of the General Assembly, the Soviet delegation had had the opportunity to set out before the Sixth Committee its vision of ways to harmonize national and global interests through the primacy of international law and reliance on the authority and capabilities of the United Nations. Life itself had vindicated that approach.

66. The events of 1990, which had buried the cold war for ever and closed the book on the Second World War, were clear evidence that the new political thinking, the underlying policy of all Soviet foreign policy since the beginning of perestroika, had become part and parcel of world politics. The truly revolutionary changes in Europe and elsewhere, indeed in the entire system of international relations, had not been cataclysmic. The world was entering a new age, a post-confrontational era defined by global acceptance of universal human values as the highest priority.

67. At the dawn the new era, when the General Assembly had proclaimed the 1990s as the United Nations Decade of International Law, the world community had set out on its journey to the haven of stability, checking its course against the instruments of law.

68. Ironically, the paramount importance of international law had been underscored quite recently by its gross violation, the Iraqi aggression against Kuwait. That act of terrorism had created another hotbed of tension in an already explosive region, jeopardized international peace and security and dealt the world economy a heavy blow. Such were the costs that the entire world community must bear as a result of unlawful action by one of its members. Innocent people were made to pay the price of the political arrogance of one State.

69. The unprecedented unity in the Security Council and the world community in the face of the Iraqi challenge was a sign of mankind's recognition that in an interdependent world nations could only win or lose together, and that unilateral actions taken in disregard of the interests of other States could jeopardize the very existence of human civilization. It was high time that Baghdad, too, realized that genuine national interests could only be served by policies that did not violate the rights and interests of other States and of the entire international community. As Hugo Grotius had once written, a nation that encroached upon natural law and the rights of other nations destroyed for ever the foundations of its own future tranquillity. It was in that context that Mr. Gorbachev's remark that every State stood to benefit by remaining within the limits of international law must be understood.

(Mr. Petrovsky)

70. Following up words with deeds, the Soviet Union had withdrawn its reservations concerning the compulsory jurisdiction of the International Court of Justice with regard to human-rights agreements. It was also in the process of withdrawing its reservations concerning other agreements. Furthermore, the Supreme Soviet of the USSR had adopted legislation providing that in the event of a conflict between national and international law, the latter took precedence.

71. The Persian Gulf crisis posed a serious threat to civilization, but it also demonstrated the margin of stability that the world enjoyed as a result of the new political thinking. The crisis had thus marked a watershed in modern history: an act of aggression that during the cold war would have split the world into two opposing ideological blocs and brought it to the brink of another world war had given rise to a demonstration of unity by the international community and strengthened its commitment to international law and the goals and principles of the United Nations. In a new world climate, in which the supremacy of universal human values over ideology was recognized, the United Nations saw unprecedented prospects for realizing in all areas the potential written into the Charter 45 years previously. It was hardly surprising that currently, as never before, the Charter of the United Nations, the centre-piece of contemporary international law, had become increasingly up to date, considering that it had been drawn up at a time when the international community had come together in a united front against Nazi tyranny. When the war-time allies had lost their unity, the policy of confrontation had gained the upper hand, and the principles and standards set by the Charter, and the entire United Nations machinery, had begun to work less effectively. But with the United Nations reunited, the Charter, as the Secretary-General had said, gained richer meaning as political evolution progressively enlarged and clarified the scope of its principles (A/45/1, p. 2). The original potential of the United Nations was far from exhausted and could be fully realized through a post-confrontational reading of its Charter. The current task was to take advantage of the growing spirit of co-operation and recent experience in order to adapt the structures of multilateral diplomacy to the new global agenda, give a new dimension to the existing mechanisms of the United Nations and transform the Organization into a collective liaison centre for managing the world in the interest of all.

72. Now that the United Nations was getting a new lease on life, it was more important than ever to take a fresh look at the broad principles of international law enshrined in the Charter.

73. Although no State was likely to admit openly that it had violated generally recognized norms of international law, such violations had occurred on many occasions. Their perpetrators had always found a justification, such as securing the release of hostages, restoring democracy or responding to a request by a legitimate Government. Regrettably, such abuses of international law committed in the past by certain countries, including the Soviet Union, had been made possible partly as a result of deficiencies in the norms themselves and also in the procedures for their interpretation and implementation. It was therefore important to add clarity to the principles of international law and to close loopholes that

(Mr. Petrovsky)

allowed States to circumvent international legal norms or find excuses for their violation. Broad opportunities existed for action in that area within the framework of the United Nations. International legal norms must be made more effective by strengthening current implementation and verification mechanisms and by developing new ones. It would be necessary to place broader reliance upon existing mechanisms and procedures for settling disputes, including their use in the interpretation and implementation of principles and norms of international law. That meant an increased role for the International Court of Justice and wider use of arbitration, mediation and good offices.

74. As for new mechanisms, it would be worthwhile to consider establishing a United Nations verification authority to monitor compliance with arms-control treaties and agreements aimed at reducing international tensions, as well as to keep a close watch on the military situation in areas of conflict. Such a mechanism, which could use space-based means of verification, could be a subsidiary body of the Security Council and would be authorized to carry out on-site inspections. Its findings would be brought to the attention of the principal bodies of the United Nations. In certain instances, its conclusions could be used by the International Court of Justice; it was important to achieve early universal recognition of the Court's compulsory jurisdiction.

75. International verification must no longer be regarded solely as an institution aimed at identifying and punishing offenders. The concept might build upon three basic elements: verification of compliance; assistance in fulfilling obligations; and prevention of violations.

76. As underscored by recent developments, in order to be effective in maintaining peace, the United Nations must also have at its disposal the means to suppress aggression. Although it was not easy to take enforcement measures against one of its Members, the United Nations must be able to act firmly when necessary. The Security Council must respond quickly and with determination if that was called for by the nature and dimensions of the threat, and it must go as far as the interests of world peace required. That being the case, the Military Staff Committee should be transformed into an effective co-operation body. The relevant provisions of the Charter must be implemented to that end, because without carefully considered recommendations from the Military Staff Committee the Security Council was unable to perform its functions fully. In order to give impetus to efforts along those lines, the Soviet Union suggested holding a meeting of the Military Staff Committee at the level of the Chiefs of Staff of the armed forces of the permanent members of the Security Council - which was explicitly provided for in the Charter - and reviewing all organizational aspects of countering acts of aggression.

77. It was encouraging to see the Security Council break with confrontational stereotypes and become more capable of taking effective decisions. In that new environment, familiar concepts had acquired new meaning. Thus, the principle of unanimity, which had promptly been renamed the veto, was now once again fully assuming its initial role. Today, that implied more responsibility but certainly not more power for the permanent members of the Council.

(Mr. Petrovsky)

78. In broader terms, consensus was the most efficient method of achieving a balance of interests and agreements acceptable to all, and it was important to endeavour to adopt United Nations resolutions and decisions on that basis as often as possible. A genuine as opposed to a merely formal consensus would elevate the status of General Assembly resolutions, which must carry real political weight and reflect the intellectual and moral imperatives of the new era. They must be free of rhetoric and of the stigma of ideological rivalries. It was also important for them to be as concrete as possible, since harmony in inter-State relations depended on their implementation. Hence the emphasis given by the Soviet Union to consensus as the preferred method of decision-making. Of course, decisions taken by a majority vote must retain all their political significance and be duly respected by States in the formulation of their national policies and legislation.

79. The efficiency of the United Nations as a guarantor of world security was predicated on access to comprehensive and accurate information, and his delegation was pleased to note that at its 1990 session the Special Committee had merged two complementary working papers (A/AC.182/L.60/Rev.1 and A/AC.182/L.62/Rev.1) containing concrete proposals for improving the existing fact-finding mechanisms and the establishment of new ones. That ought to open the way to the adoption of a new instrument which would reinforce that important dimension of the Organization's peace-making potential.

80. The Soviet delegation would like the document produced by the Special Committee at its 1990 session on rationalization of existing United Nations procedures to be adopted by consensus, as had been the case with resolution 39/88 by which the General Assembly decided to reproduce as an annex to its rules of procedure the conclusions adopted by the Special Committee at its 1984 session.

81. With regard to the Special Committee's programme of work, his delegation had submitted at the 1990 session a working paper (A/AC.182/L.65; see also A/45/33, para. 14) listing concrete subjects which it would like to see included: ways of expanding co-operation between the United Nations and regional organizations; the broadening of the peace-making efforts of the Secretary-General of the United Nations; participation by the Special Committee in the elaboration of a draft general instrument on peaceful settlement of disputes; the question of ways and means of implementing the Charter of the United Nations and the norms of international law as well as related enforcement actions vis-à-vis a State that had breached the peace or failed to comply with Security Council decisions; provisional measures which the Security Council might take in accordance with Article 40 of the Charter; the broadening of the sphere of application of preventive United Nations activities; the strengthening of the collective security régime provided for in the Charter; and the question of the effectiveness of the United Nations system as a whole. The Soviet delegation reiterated its interest in discussing those matters in the Special Committee, which had demonstrated on many occasions its ability to produce concrete recommendations by consensus and thus contribute to the strengthening of the United Nations. The Special Committee's work in several of the areas mentioned could also make a contribution to the preparation of a long-term programme for the development of international law within the framework of the Decade of International Law.

(Mr. Petrovsky)

82. The last decade of the century should also be a decade of joint efforts and consensus with respect to the central problems of the day, a decade of legal order maintained by collective action. The United Nations should become "a university of co-operation".

83. Mr. AHMED (Iraq), speaking in exercise of the right of reply, said that some people brought up the Gulf crisis at every opportunity and always inopportunely. The representative of a brother country, Egypt, had spoken of the Security Council taking a position against Iraq. That was an extremely biased view. The resolutions referred to by the representative of Egypt had been adopted in haste and under pressure from certain members of the Security Council without regard to the provisions of Chapter VII of the Charter, a situation to which attention had moreover been drawn by some members of the Council itself. They had also been adopted without taking Iraq's peace initiatives into account, in particular the initiative taken on 12 August 1990 by Mr. Saddam Hussein with a view to settling all the problems of the Middle East and achieving a comprehensive and definitive peace throughout the region.

84. The statement by the representative of Egypt reflected the position of his Government, which rejected any solution in order to serve the interests of its friends which had occupied Arab territories and imposed a blockade against Iraq even before the Security Council had adopted the resolutions in question. The resolutions would have a disastrous impact on the economies of many countries, and Iraq once again drew attention to that point.

85. The representative of Egypt had been careful not to mention the manoeuvres and pressure tactics which a permanent member of the Security Council had engaged in, as usual, in order to protect the Zionist entity - in the wake of the Jerusalem massacre - against the sending of a Security Council mission, and to secure the adoption of a watered-down resolution [resolution 672 (1990)], which that entity had none the less immediately rejected. It was particularly ironic that the resolution mentioned resolutions which had remained dead letters, one of them dating back more than 20 years. That was a problem which the representative of Egypt ought to have spoken about with equal zeal.

86. Iraq had taken part in the work of the Special Committee and it would continue to make every possible effort to enhance the role of the Organization and strengthen the Charter.

87. His delegation would have preferred not to have to raise matters far removed from the item under discussion.

88. Mr. MADI (Egypt), speaking in exercise of the right of reply, said that although he had spoken in Arabic the representative of Iraq seemed not to have understood his very clear statement. The States Members of the United Nations and the whole international community had condemned Iraq as a result of its aggression against Kuwait, an act which had led the Security Council to demand that Iraq should withdraw from Kuwait. When Iraq had failed to comply, the Council had adopted other resolutions imposing sanctions against the aggressor. The Iraqi

(Mr. Madi, Egypt)

delegation was, understandably, very sensitive on that point and sought to deny the evidence: a flagrant act of aggression had been committed against a brother Arab country and against a brother Arab people. Perhaps the representative of Iraq did not understand the term "aggressor", even in Arabic. With regard to the argument that the sanctions imposed against Iraq would have a disastrous impact on the world economy, the truth of the situation must be restated: the sanctions resolutions had been adopted after Iraq's act of aggression and not before, and it was Iraq which bore the responsibility.

89. Mr. AL-SABEEH (Kuwait), speaking in exercise of the right of reply, said that it was disgraceful for the representative of Iraq to be participating in the Committee's debate. His delegation agreed with the representative of Egypt that the representative of Iraq did not understand Arabic. The representative of Iraq claimed that the dictatorial régime which he represented respected the Charter of the United Nations - a truly farcical claim. Security Council resolutions had mandatory force, and no one could disregard those which did not suit him. As to the so-called peace initiative which would link the withdrawal of troops to the solution of the Middle East problem, there was not the slightest parallel between the unlawful occupation of Kuwait, an independent and sovereign country with a legitimate Government which had always maintained relations of good neighbourliness with all the States of the region, and any other problem. It stood to reason that it was impossible to solve an ancient problem of usurpation of territory in the region by usurping new territory.

90. The CHAIRMAN read out paragraph 77 of annex V to the rules of procedure of the General Assembly, which requested that delegations should use restraint in the exercise of their right of reply and that their statements in exercise of that right should be as brief as possible, and paragraphs 9 and 10 of General Assembly decision 34/401, which provided respectively that the number of interventions in the exercise of the right of reply for any delegation at a given meeting should be limited to two per item and that the first intervention should be limited to 10 minutes and the second to 5 minutes.

91. Mr. AHMED (Iraq), speaking in exercise of the right of reply for the second time, said that the representative of Egypt had used thoroughly objectionable language. As for the second person who had spoken, he represented nobody.

92. Mr. AL-SABEEH (Kuwait) said that he represented a State Member of the United Nations, Kuwait, in whose favour the Security Council had taken a unanimous decision. The Council had adopted more than eight resolutions in order to protect Kuwait and condemn Iraq.

93. Mr. MADI (Egypt) said that he was surprised that the representative of Iraq should regard his statement as objectionable. The representative of Iraq certainly did not understand Arabic at all. The arguments of the representative of Iraq were so grotesque as to call for no further response.

The meeting rose at 5.50 p.m.